

RESOLUTION NO. R-2009- 0017

RESOLUTION APPROVING ZONING APPLICATION DOA-2008-01353
(CONTROL NUMBER 2003-00036)
DEVELOPMENT ORDER AMENDMENT
APPLICATION OF HOMELAND PLAZA LLC, JR EISENMAN PROPERTIES LLC
BY MILLER LAND PLANNING, AGENT
(SOUTH ROAD OFFICE MUPD)

WHEREAS, the Board of County Commissioners, as the governing body of Palm Beach County, Florida, pursuant to the authority vested in Chapter 163 and Chapter 125, Florida Statutes, and the Palm Beach County Unified Land Development Code, as amended, is authorized and empowered to consider applications relating to zoning; and

WHEREAS, the notice and public hearing requirements, as provided for in Article 2 (Development Review Process) of the Palm Beach County Unified Land Development Code (Ordinance 2003-067, as amended) have been satisfied; and

WHEREAS, Zoning Application DOA-2008-01353 was presented to the Board of County Commissioners at a public hearing conducted on January 8, 2009; and

WHEREAS, the Board of County Commissioners has considered the evidence and testimony presented by the applicant and other interested parties, the recommendations of the various county review agencies, and the recommendation of the Zoning Commission; and

WHEREAS, this approval is subject to Article 2.E (Monitoring), of the Palm Beach County Unified Land Development Code and other provisions requiring that development commence in a timely manner; and

WHEREAS, the Board of County Commissioners has considered the findings in the staff report and the following findings of fact:

1. This Development Order Amendment is consistent with the purposes, goals, objectives and policies of the Palm Beach County Comprehensive Plan, including standards for building and structural intensities and densities, and intensities of use.
2. This Development Order Amendment complies with relevant and appropriate portions of Article 4.B (Supplementary Use Standards) of the Palm Beach County Unified Land Development Code. This Development Order Amendment also meets applicable local land development regulations.
3. This Development Order Amendment, with conditions as adopted, is compatible as defined in the Palm Beach County Unified Land Development Code and generally consistent with the uses and character of the land surrounding and in the vicinity of the land proposed for development.
4. The proposed design, with conditions as adopted, minimizes adverse effects, including visual impact and intensity of the proposed use on adjacent lands.
5. This Development Order Amendment has a concurrency determination and complies with Article 2.F (Concurrency - Adequate Public Facility Standards) of the ULDC.
6. This Development Order Amendment, with conditions as adopted, minimizes environmental impacts, including but not limited to water, air, stormwater management, wildlife, vegetation, wetlands and the natural functioning of the environment.

7. This Development Order Amendment, with conditions as adopted, will result in logical, timely and orderly development patterns.
8. This Development Order Amendment, with conditions as adopted, complies with standards imposed on it by all other applicable provisions of the Palm Beach County Unified Land Development Code for use, layout, function, and general development characteristics.
9. This Development Order Amendment, with conditions as adopted, is consistent with applicable Neighborhood Plans.
10. The applicant has demonstrated sufficient justification that there are changed circumstances, which would require the Development Order Amendment.

WHEREAS, Article 2.K.3.b (Action by BCC) of the Palm Beach County Unified Land Development Code requires that the action of the Board of County Commissioners be adopted by resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that Zoning Application DOA-2008-01353, the application of Homeland Plaza Llc, Jr Eisenman Properties Llc, by Miller Land Planning, agent, for a Development Order Amendment to to modify/delete Conditions of Approval (Landscape, Building and Site Design, Planning, and Access) on a parcel of land legally described in EXHIBIT A, attached hereto and made a part hereof, and generally located as shown on a vicinity sketch attached as EXHIBIT B, attached hereto and made a part hereof, was approved on January 8, 2009, subject to the conditions of approval described in EXHIBIT C, attached hereto and made a part hereof.

Commissioner Vana moved for the approval of the Resolution.

The motion was seconded by Commissioner Santamaria and, upon being put to a vote, the vote was as follows:

Commissioner John F. Koons, Chairman	-	Aye
Commissioner Burt Aaronson, Vice Chairman	-	Absent
Commissioner Karen T. Marcus	-	Aye
Commissioner Shelley Vana	-	Aye
District 4 Commissioner Mary McCarty	-	Absent
Commissioner Jess R. Santamaria	-	Aye
Commissioner Addie L. Greene	-	Aye

The Chairperson thereupon declared that the resolution was duly passed and adopted on January 8, 2009.

Filed with the Clerk of the Board of County Commissioners on February 4th, 2009

This resolution is effective when filed with the Clerk of the Board of County Commissioners.

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY

PALM BEACH COUNTY, FLORIDA
BY ITS BOARD OF COUNTY
COMMISSIONERS

SHARON BOCK, CLERK &
COMPTROLLER

BY: 
COUNTY ATTORNEY

BY: 
DEPUTY CLERK



EXHIBIT A

LEGAL DESCRIPTION

PARCELS A,B, AND PRESERVE PARCEL A, SOUTH ROAD/441,
ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK
108, PAGES 3 AND 4 OF THE PUBLIC RECORDS OF PALM BEACH
COUNTY, FLORIDA.

EXHIBIT B
VICINITY SKETCH

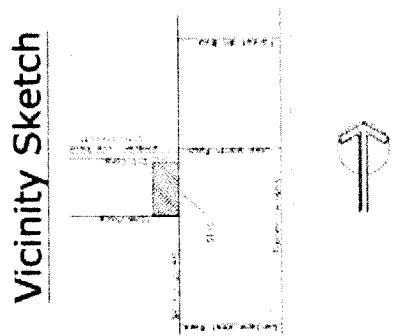


EXHIBIT C

CONDITIONS OF APPROVAL

ALL PETITIONS

1. All previous conditions of approval applicable to the subject property, as contained in Resolution R--2004-0157 (Control 2003-036), have been consolidated as contained herein.

The property owner shall comply with all previous conditions of approval and deadlines previously established by Article 2.E of the Unified Land Development Code (ULDC) and the Board of County Commissioners or Zoning Commission, unless expressly modified. (ONGOING: MONITORING - Zoning)

2. Previous Condition A.1 of Resolution R-2004-0157, Control No. 2003-036, which currently states:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated November 14, 2003. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

Is hereby amended to read:

Development of the site is limited to the site design as approved by the Board of County Commissioners. The approved site plan is dated September 22, 2008. All modifications must be approved by the Board of County Commissioners unless the proposed changes are required to meet conditions of approval or are in accordance with the ULDC. (ONGOING: ZONING - Zoning)

ACCESS

1. Previous Condition B.1 of Resolution R-2004-0157, Control No. 2003-036, which currently states:

Prior to final site plan approval by the Development Review Officer (DRO), the petitioner shall record cross access agreement from the subject property to the adjacent South Road PUD property to the west in a form acceptable to the County Attorney. (DRO: COUNTY ATTY - Zoning)

Is hereby deleted - [Reason: Cross Access has been deleted]

ARCHITECTURAL REVIEW

1. Previous Condition C.1 of Resolution R-2004-0157, Control No. 2003-036 which currently states:

At time of submittal for final DRO approval, the architectural elevations for all structures shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations and the site plan shall be designed to be consistent with Sections 6.6.C. and 6.6.E of the ULDC. Development shall be consistent with the approved architectural elevations and the DRO approved site plan. (DRO: ARCH REVIEW - Zoning)

Is hereby amended to read:

At time of submittal for final DRO approval, the architectural elevations for all structures shall be submitted simultaneously with the site plan for final architectural review and approval. Elevations and the site plan shall be designed to be consistent with Article 5.C. of the ULDC. Development shall be consistent with the approved architectural elevations and the DRO approved site plan. (DRO: ARCH REVIEW - Zoning)

2.Design of gutters and downspouts shall be integrated into the architectural design of the buildings. Painting of the gutters and downspouts shall not constitute architectural integration. (DRO: ARCH REVIEW - Zoning) (Previous Condition C.2 of Resolution R-2004-0157, Control No. 2003-036)

BUILDING AND SITE DESIGN

1.The maximum height for buildings A, B, C and D, as shown on the site plan dated November 14, 2003 shall be thirty-five (35) feet including air conditioning, mechanical equipment, satellite dishes and architectural features. The maximum height for the financial institution building, including air conditioning, mechanical equipment, satellite dishes and architectural features shall be twenty-five (25) feet. All heights shall be measured from finished grade to highest point, excluding decorative elements. (DRO/BLDG PERMIT: ZONING/BLDG - Zoning) (Previous Condition D.1 of Resolution R-2004-0157, Control No. 2003-036)

2.All roof or ground mounted air conditioning, mechanical equipment and satellite dishes shall be screened from view on all sides by a visually opaque barrier that is consistent with the color, character and architectural style of the principal structure or equivalent landscape material. (DRO/CO: ARCH REVIEW/BLDG - Zoning) (Previous Condition D.2 of Resolution R-2004-0157, Control No. 2003-036)

3.All areas or receptacles for the storage and disposal of trash, garbage, recyclable material or vegetation, such as dumpsters and trash compactors, shall not be located within seventy-five (75) feet of the west property line and shall be confined to the areas designated on the site plan. (DRO/ONGOING: ZONING/CODE ENF - Zoning) (Previous Condition D.3 of Resolution R-2004-0157, Control No. 2003-036)

4.Prior to final DRO approval, the site plan shall be amended to reflect a reduction in impervious surface area at the ingress and egress to the bank queuing and by-pass lanes. The adjacent median to the south shall be expanded to the maximum extend permissible to accommodate this reduction, subject to approval by the County Engineer and Zoning Division. (DRO: ENG/ZONING - Zoning) (Previous Condition D.4 of Resolution R-2004-0157, Control No. 2003-036)

5.Previous Condition D.5 of Resolution R-2004-0157, Control No. 2003-036, which currently states:

Prior to final DRO approval, the site plan shall be amended to reflect no parking spaces in alignment with the cross access to the adjacent South Road PUD property to the west. The area immediately across the drive aisle to the east of the cross access, as shown on the site plan dated November 14, 2003 shall be grassed, include a trellis or similar pedestrian amenity acceptable to the Zoning Division, and have a direct connection to the sidewalk system on the property. The overall width of the grassed area shall be a minimum of seventy-five (75) feet. (DRO: ZONING - Zoning)

Is hereby amended to read:

Prior to approval of the site plan by the Development Review Officer (DRO), the site plan shall be amended to remove: both vehicular and pedestrian connections, decorative paving and add parking spaces to be in alignment with the westernmost parking spaces across from the access to the adjacent PUD property to the west. (DRO: ZONING Zoning)

6.Prior to approval of the site plan by the Development Review Officer (DRO), the site plan shall be amended to indicate the following amenities consistent with the site plan dated September 22, 2008:

- a. a trellis or similar pedestrian amenity acceptable to the Zoning Division which has a direct connection to the sidewalk system on the property; and,
- b. the west side of the 2,850 square foot structure (Bldg D), shall be grassed. The overall width of the grassed area shall be a minimum of seventy-five (75) feet in width. (DRO: ZONING - ARCH)

ENGINEERING

1. In order to comply with the mandatory Traffic Performance Standards, the Developer shall be restricted to the following phasing schedule:

No Building Permits for the site may be issued after February 1, 2005. A time extension for this condition may be approved by the County Engineer based upon an approved Traffic Study, which complies with Mandatory Traffic Performance Standards in place at the time of the request. This extension request shall be made pursuant to the requirements of Section 5.8 of the Unified Land Development Code. (DATE: MONITORING - Eng) (Previous Condition E1 of Resolution R-2004-157, Control Number 2003-036)

2. Prior to the issuance of a building permit, the property owner shall convey to Palm Beach County Land Development Division by warranty deed for 52nd Place South, 40 feet from centerline. Right of way conveyance shall be free of all encumbrances and encroachments. The Developer shall provide Palm Beach County with sufficient documentation acceptable to the Right of Way Acquisition Section to ensure that the property is free of all encumbrances and encroachments. The Grantor further warrants that the property being conveyed to Palm Beach County meets all appropriate and applicable environmental agency requirements. In the event of a determination of contamination which requires remediation or clean up on the property now owned by the Grantor, the Grantor agrees to hold the Grantee harmless and shall be responsible for all costs of such clean up, including but not limited to, all applicable permit fees. Engineering or other expert witness fees including Attorney's fees as well as the actual cost of the clean up. Thoroughfare Plan Road right-of-way conveyances shall be consistent with Palm Beach County's Thoroughfare Right of Way Identification Map and shall include where appropriate as determined by the County Engineer provisions for Expanded Intersection Details and "Corner Clips". (BLDG PERMIT: MONITORING - Eng) (Previous Condition E2 of Resolution R-2004-157, Control Number 2003-036)

[Note: Complete]

3. LANDSCAPE WITHIN THE MEDIAN OF STATE ROAD 7

a. The petitioner shall design, install and perpetually maintain the median landscaping within the median of all abutting right of way of SR 7. This landscaping and irrigation shall strictly conform with the specifications and standards for the County's Only Trees, Irrigation, and Sod (OTIS) program. Additional landscaping beyond OTIS requires Board of County Commissioners approval. Median landscaping installed by the petitioner shall be perpetually maintained by the petitioner, his successors and assigns, without recourse to Palm Beach County, unless petitioner provides payment for maintenance as set forth in Paragraph D.

b. The necessary permit(s) for this landscaping and irrigation shall be applied for prior to the issuance of the first building permit. (BLDG PERMIT: MONITORING - Eng)

c. All installation of the landscaping and irrigation shall be completed prior to the issuance of the first certificate of occupancy. (CO: MONITORING - Eng)

d. At petitioner's option, when and if the County is ready to install OTIS on the surrounding medians of this roadway adjacent to the petitioner installed landscaping, payment for the maintenance may be provided to the County. The payment shall be in the amount and manner that complies with the schedule for such payments that exists on the date payment is made. Once payment has been provided, Palm Beach County shall assume the maintenance responsibility for the OTIS landscaping and irrigation that has been installed by the petitioner. The petitioner shall first be required to correct any deficiencies in the landscaping and irrigation. This option is not available to medians with additional landscaping beyond OTIS standards, unless those medians are first brought into conformance with OTIS standards by the Petitioner.

e. Alternately, at the option of the petitioner, and prior to the issuance of a Building Permit, the petitioner may make a contribution to the County's Only Trees Irrigation and Sod, OTIS program, unincorporated thoroughfare beatification program. This payment for the County's installation of landscaping and irrigation on qualifying thoroughfares shall be based on the project's front footage along SR 7. This payment shall be in the amount and manner that complies with the schedule for such payments as it currently exists or as it may from time to time be amended. (Previous Condition E3 of Resolution R-2004-157, Control Number 2003-036)

[Note: Complete]

ENVIRONMENTAL

1. All existing native vegetation, including understory, depicted on the site plan to remain shall be maintained in perpetuity. Areas where existing native vegetation have been incorporated into the site plan shall be maintained free from invasive, exotic and non-native species. (ONGOING:ERM-ERM) (Previous Condition F.1 of Resolution No. R-2004-0157, Control No. 2003-036)

2. A 25% upland set-aside equal to or greater than 0.78 acres is required for this site. However, a 0.44-acre portion of this required set-aside is proposed for cash buy-out and a 0.34-acre portion is shown on the site plan to remain. Should the cash buy-out option not be exercised, an upland preserve set-aside equaling or greater to 0.78 acres shall be depicted on the site plan in a location that contains the highest quality native vegetation and is approved by ERM. (ONGOING: ERM-ERM) (Previous Condition No. F.2 of Resolution No. R-2004-0157, Control No. 2003-036)

3. A Preserve Management Plan and form of recordation such as Conservation Easement, Restrictive Covenant or Plat, shall be approved by ERM prior to final site plan approval. (DRO:ERM-ERM) (Previous Condition F.3 of Resolution No. R-2004-0157, Control No. 2003-036)

4. Should the proposed buy-out of 0.44 acres of required upland set-aside be requested by the petitioner, the buy-out shall be executed and completed prior to final site plan approval. (DRO:ERM-ERM) (Previous Condition No. F.4 of Resolution No. 2004-0157, Control No. 2003-036)

5. Should the proposed buy-out of 0.44 acres of required upland set-aside be requested by the petitioner, three (3) separate appraisals of the entire property at the proposed zoning to establish the property value of upland set-aside, shall be submitted to ERM for approval prior to accepting a cash buy-out in lieu of establishing an upland set-aside. (DRO:ERM-ERM) (Previous Condition No. F.5 of Resolution No. R-2004-0157, Control No. 2003-036)

ZONING - LANDSCAPING

1. Fifty (50) percent of canopy trees to be planted in the landscape buffers shall be native and meet the following minimum standards at installation:

- a. Tree height: Fourteen (14) feet;
- b. Trunk diameter: 3.5 inches measured at 4.5 feet above grade;
- c. Canopy diameter: Seven (7) feet diameter shall be determined by the average canopy radius measured at three (3) points from the trunk to the outermost branch tip. Each radius shall measure a minimum of 3.5 feet in length; and,
- d. Credit may be given for existing or relocated trees provided they meet ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition G.1 of Resolution R-2004-0157, Control No. 2003-036)

2. All palms required to be planted on site by this approval shall meet the following minimum standards at installation:

- a. Palm heights: twelve (12) feet clear trunk;
- b. Clusters: staggered heights twelve (12) to eighteen (18) feet; and,
- c. Credit may be given for existing or relocated palms provided they meet current ULDC requirements. (CO: LANDSCAPE - Zoning) (Previous Condition G.2 of Resolution R-2004-0157, Control No. 2003-036)

3. All shrub or hedge materials shall be planted in continuous masses and in a meandering and naturalistic pattern, consisting of a minimum of two (2) to three (3) varying heights. Shrub materials shall be continuously maintained to achieve the following heights and hierarchical effect:

- a. Eighteen (18) to twenty-four (24) inches groundcover and small shrub;
- b. Twenty-four (24) to thirty-six (36) inches medium shrub;
- c. Forty-eight (48) to seventy-two (72) inches large shrub; and,
- d. This condition shall not apply to landscape buffers where a single row of shrubs is required along either side of a fence or wall. (CO: LANDSCAPE - Zoning) (Previous Condition G.3 of Resolution R-2004-0157, Control No. 2003-036)

4. All trees and palms shall be planted in a meandering and naturalistic pattern. (CO: LANDSCAPE - Zoning) (Previous Condition G.4 of Resolution R-2004-0157, Control No. 2003-036)

5. A group of three (3) or more palm trees may not supersede the requirement for a canopy tree in that location, unless specified herein. (CO: LANDSCAPE - Zoning) (Previous Condition G.5 of Resolution R-2004-0157, Control No. 2003-036)

6. All canopy trees to be planted within overhead utilities easement shall be consistent with FP&L's tree list as suggested in the Plant the Right Tree in the Right Place@ guidelines and pursuant to Section 7.3.E.12.a of the ULDC. (CO: LANDSCAPE - Zoning) (Previous Condition G.6 of Resolution R-2004-0157, Control No. 2003-036)

7. Field adjustment of berms, walls and/or plant materials may be permitted to provide pedestrian sidewalks and bike paths, and to accommodate transverse utility or drainage easements crossings and existing vegetation. (CO: LANDSCAPE - Zoning) (Previous Condition G.7 of Resolution R-2004-0157, Control No. 2003-036)

8. Prior to final DRO approval, an Alternative Landscape Plan shall be submitted for landscaping along the east property line and any portion of the property where existing vegetation may affect the proposed landscaping. (DRO: LANDSCAPE - Zoning) (Previous Condition G.8 of Resolution R-2004-0157, Control No. 2003-036)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE EAST PROPERTY LINE (FRONTAGE OF STATE ROAD 7/U.S. 441)

9. Landscaping and buffering along the east property line shall be upgraded to include:

- a. a minimum twenty (20) foot wide landscape buffer strip with a maximum five (5) feet of utility easement encroachment;
- b. a minimum two (2) to three (3) foot high undulating berm with an average height of two and one-half (2.5) feet measured from top of curb;
- c. one (1) canopy tree for each thirty (30) linear feet of property line;
- d. one (1) palm or pine tree for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of eighteen (18) inches at installation;
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- g. one (1) large shrub for each six (6) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning) (Previous Condition H.1 of Resolution R-2004-0157, Control No. 2003-036)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH AND SOUTH PROPERTY LINES (ABUTTING LWDD S-7 CANAL AND 52ND PLACE SOUTH)

10. Landscaping and buffering along the north and south property lines shall be upgraded to include:

- a. a minimum fifteen (15) foot wide landscape buffer strip with a maximum five (5) feet of utility easement encroachment;
- b. a minimum one (1) to two (2) foot high undulating berm with an average height of one and one-half (1.5) feet measured from top of curb;
- c. one (1) canopy tree for each thirty (30) linear feet of property line;
- d. one (1) palm or pine for each thirty (30) linear feet of property line with a maximum spacing of sixty (60) feet between clusters;
- e. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- f. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning) (Previous Condition I.1 of Resolution R-2004-0157, Control No. 2003-036)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE NORTH HALF (PHASE I) OF THE WEST PROPERTY LINE (ABUTTING SOUTH ROAD PUD)

11. Previous Condition J.1 of Resolution R-2004-0157, Control No. 2003-036 which currently states:

Landscaping and buffering along the west property line shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous two (2) foot high berm measured from finished grade;
- c. a six (6) foot high opaque concrete panel wall shall be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is compatible and harmonious with abutting development;
- d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall; and,
- e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall. (CO: LANDSCAPE - Zoning) (Previous Condition J.1 of Resolution R-2004-0157, Control No. 2003-036)

Is hereby amended to read:

In addition to Code requirements, landscaping and buffering along the north half (Phase I) of the west property line shall be upgraded to include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous two (2) foot high berm measured from finished grade;
- c. a six (6) foot high opaque concrete panel wall shall be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is compatible and harmonious with abutting development;
- d. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall; and,
- e. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall. (CO: LANDSCAPE - Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH HALF (PHASE II) OF THE WEST PROPERTY LINE (ABUTTING SOUTH ROAD PUD)

12. By February 15, 2009, the property owner shall obtain a certificate of completion for

buffering along the south half (Phase II) of the west property line (abutting South Road PUD) which shall include:

- a. a minimum twenty-five (25) foot wide landscape buffer strip. No width reduction or easement encroachment shall be permitted;
- b. a continuous two (2) foot high berm measured from finished grade;
- c. a six (6) foot high opaque concrete panel wall shall be located on the plateau of the berm. The exterior side of the wall shall be given a finished architectural treatment that is compatible and harmonious with abutting development. (DATE: LANDSCAPE Zoning)

ZONING - LANDSCAPING-LANDSCAPING ALONG THE SOUTH HALF (PHASE II) OF THE WEST PROPERTY LINE (ABUTTING SOUTH ROAD PUD)

13. In addition to Code requirements, the property owner shall upgrade and complete landscape and buffering along the south half (Phase II) of the west property line to include:

- a. one (1) canopy tree planted for each twenty (20) linear feet of the property line, alternating on both sides of the wall;
- b. one (1) palm or pine tree for each thirty (30) linear feet of the property line with a maximum spacing of sixty (60) feet between clusters, alternating on both sides of the wall;
- c. installation of irrigation for berm; and
- d. field adjustment of new plants and trees shall be permitted to provide for maximum screening. (CO: LANDSCAPE - Zoning)

ZONING - LANDSCAPING

14. Previous Condition J.2 of Resolution R-2004-0157, Control No. 2003-036 which currently states:

The following landscaping requirements shall be installed on the exterior side of the required wall:

- a. one (1) small shrub for each two (2) linear feet of the property line. Shrub shall be a minimum height of twenty-four (24) inches at installation; and,
- b. one (1) medium shrub for each four (4) linear feet of the property line. Shrub shall be a minimum height of thirty (30) inches at installation. (CO: LANDSCAPE - Zoning)

Is hereby deleted [Reason: Code Requirement]

15. Previous Condition J.3 of Resolution R-2004-0157, Control No. 2003-036 which currently states:

Along the interior side of the required wall, the petitioner shall install thirty (30) inch high shrub or hedge material spaced no more than twenty four (24) inches on center, to be maintained at a minimum height of thirty-six (36) inches at maturity. (CO: LANDSCAPE - Zoning)

Is hereby deleted [Reason: Code Requirement]

16. Previous Condition J.4 of Resolution R-2004-0157, Control No. 2003-036 which currently states:

Within ninety (90) days of the approval of the vegetation removal permit issued by ERM, the property owner or petitioner or developer shall complete conditions J.1 and J.2. Condition J.3 may be completed prior to the issuance of a Certificate of Occupancy. (VEG. PERMIT/CO: ERM/LANDSCAPE - Zoning)

Is hereby deleted - [Reason: Issuance of Vegetation Permit is no longer applicable].

ZONING - LANDSCAPING-INTERIOR

17.A minimum of one (1) landscape island shall be provided for every ten (10) parking spaces. The maximum spacing between landscape islands shall not exceed one hundred (100) linear feet. (DRO: ZONING - Zoning) (Previous Condition K.1 of Resolution R-2004-0157, Control No. 2003-036)

18.Foundation planting or grade level planters shall be provided along the following:

- a. North, east and west facades of the bank building and buildings B and D as shown on the site plan dated November 14, 2003;
- b. South, east and west facades of buildings A and C as shown on the site plan dated November 14, 2003;
- c. The minimum width of the required landscape areas shall be eight (8) feet, excluding the north faade of the bank building and the south faade of building A, where the minimum width shall be five (5) feet;
- d. The length of the required landscaped areas shall be no less than seventy-five (75) percent of the total length of each applicable facade; and,
- e. Landscape areas shall be planted with a minimum equivalent of one (1) tree or palm for each twenty (20) linear feet of building facade and appropriate ground cover. (DRO/CO: ZONING/LANDSCAPE - Zoning) (Previous Condition K.2 of Resolution R-2004-0157, Control No. 2003-036)

19.Landscaping for terminal islands in the parking area shall consist of the following:

- a. one (1) canopy or flowering tree for each island; and,
- b. a continuous hedge between all trees within the islands where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty (30) inches. (CO: LANDSCAPE - Zoning) (Previous Condition K.3 of Resolution R-2004-0157, Control No. 2003-036)

20.Special planting treatment shall be provided within the eight (8) foot wide median to the south of the bank queuing and bypass lanes, as shown on the site plan dated November 14, 2003. Planting shall consist of the following:

- a. a minimum of five (5) specimen palm (Bismarck, Canary, Medjool, Phoenix, or similar species). All palms shall be of the same variety;
- b. a minimum of four (4) flowering trees with a minimum of one (1) to be planted between each pair of palms. All flowering trees shall be of the same variety; and,
- c. a continuous hedge between all trees within the median where applicable. Shrub or hedge materials or groundcover shall be maintained at a maximum height of thirty-six (36) inches. (CO: LANDSCAPE - Zoning) (Previous Condition K.4 of Resolution R-2004-0157, Control No. 2003-036)

LIGHTING

1.All outdoor lighting used to illuminate the subject property and identification signs shall be of minimum necessary to satisfy the Palm Beach County Security Code, low intensity, shielded and directed down and away from adjacent properties and streets. (CO/ONGOING: BLDG/CODE ENF - Zoning) (Previous Condition L.1 of Resolution R-2004-0157, Control No. 2003-036)

2.All outdoor, freestanding lighting fixtures shall not exceed twenty (20) feet in height measured from finished grade to highest point. (CO: BLDG - Zoning) (Previous Condition L.2 of Resolution R-2004-0157, Control No. 2003-036)

3.All outdoor, freestanding lighting fixtures shall be setback a minimum of thirty (30) feet from the west property line. (CO: BLDG - Zoning) (Previous Condition L.3 of

Resolution R-2004-0157, Control No. 2003-036)

4.All outdoor lighting shall be extinguished no later than one half (1/2) hour after business hours, excluding security lighting only. (ONGOING: CODE ENF - Zoning) (Previous Condition L.4 of Resolution R-2004-0157, Control No. 2003-036)

5.The lighting conditions above shall not apply to proposed security or low voltage landscape/accent type lights used to emphasize plant material. (ONGOING: CODE ENF - Zoning) (Previous Condition L.5 of Resolution R-2004-0157, Control No. 2003-036)

MULTIPLE USE PLANNED DEVELOPMENT

1.Prior to approval of the site plan by the Development Review Officer (DRO), the petitioner shall record in the public record a covenant requiring architectural consistency between all buildings, signage and project identification. Consistency shall include, at a minimum, an overall unified image and character created by the use of common elements such as building materials, roof lines, muted colors, fenestration, architectural features, and architectural elements. The covenant shall be recorded in a form and manner acceptable to the Zoning Division and County Attorney. The covenant shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING/COUNTY ATTY - Zoning) (Previous Condition N.1 of Resolution R-2004-0157, Control No. 2003-036)

2.Prior to approval of the site plan by the Development Review Officer (DRO), the property owner shall record a covenant/unity of control in the public record indicating that all structures, uses and parking areas within the project are part of a single unified planned development, regardless of ownership. The covenant/unity of control shall be recorded in the public record in a manner and form acceptable to the County Attorney. The covenant/unity of control shall not be removed, altered, changed or amended without written approval from the Zoning Director. (DRO: ZONING - Co Atty) (Previous Condition N.2 of Resolution R-2004-0157, Control No. 2003-036)

PALM TRAN

1.The location of easements for Bus Stop, Boarding and Alighting Areas, subject to the approval of Palm Tran, shall be shown on the site plan prior to the final approval of the DRO. The purpose of these easements is for the future construction of Mass Transit infrastructure in a manner acceptable to Palm Tran. (DRO: PALM TRAN - Palm Tran) (Previous Condition M.1 of Resolution R-2004-0157, Control No. 2003-036)

2.Previous Condition M.2 of Resolution R-2004-0157, Control No. 2003-036 which currently states:

Prior to the issuance of the first building permit, the property owner shall convey to Palm Beach County easements for Bus Stop, Boarding and Alighting Areas, subject to the approval of Palm Tran. The location sketches, legal descriptions, and dedication documents of these easements shall be approved by Palm Tran prior to the recordation of the documents. (BLDG PERMIT: PALM TRAN - Palm Tran)

Is hereby amended to read:

Prior to Plat Recordation , the property owner shall convey and/or dedicate to Palm Beach County an easement for a Bus Stop Boarding and Alighting Area in a form with terms and conditions approved by Palm Tran. Supporting documentation, including but not not limited to a location sketch, legal description, affidavit of ownership, attorney title opinion and other related documents as deemed necessary by Palm Tran is required. (PLAT:ENG -Palm Tran)

PLANNING

1.Previous Planning Condition O.1 of Resolution R-2004-0157, Control No. 2003-036, which currently states:

Prior to the issuance of a certificate of occupancy, the property owner shall pave the

property to the edge of the western property line, with or without gates, at the location shown on the site plan that reads "proposed vehicular and pedestrian cross access". This location shall align with the existing built cross access point on the South Road PUD property. (CO: MONITORING - Planning)

Is hereby deleted [Reason: Cross Access has been deleted]

SIGNS

1. Freestanding point of purchase signs fronting on State Road 7/U.S. 441 shall be limited as follows:

- a. maximum sign height, measured from finished grade to highest point - twelve (12) feet;
- b. maximum sign face area per side - 120 square feet;
- c. maximum number of signs - two (2) for the entire site;
- d. style - monument style only;
- e. location - a maximum of one (1) sign within fifty (50) feet to the north or south side of each driveway from State Road 7/U.S. 441; and,
- f. Signs shall be limited to identification of tenants only. (CO: BLDG - Zoning) (Previous Condition P.1 of Resolution R-2004-0157, Control No. 2003-036)

2. Wall signs shall be limited to east facade of buildings A, B, C and D, and the south and east faades of the bank building, as shown on the site plan dated November 14, 2003. Individual lettering size shall be limited to a maximum of twenty-four (24) inches high. Wall signs shall be limited to identification of tenants only. (CO: BLDG - Zoning) (Previous Condition P.2 of Resolution R-2004-0157, Control No. 2003-036)

USE LIMITATIONS

1. Overnight storage or parking of delivery vehicles or trucks shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.1 of Resolution R-2004-0157, Control No. 2003-036)

2. The storage of rental trucks/trailers or outside vendors shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.2 of Resolution R-2004-0157, Control No. 2003-036)

3. Storage or placement of any material, refuse, equipment or debris shall not be permitted on the property. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.3 of Resolution R-2004-0157, Control No. 2003-036)

4. No outdoor business activities shall be allowed on site, excluding deliveries and bank transactions. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.4 of Resolution R-2004-0157, Control No. 2003-036)

5. Outdoor speaker or public address systems which are audible from any property line shall not be permitted on site. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.1 of Resolution R-2004-0157, Control No. 2003-036)

6. Business hours of operation shall be limited to 7:00 a.m. to 8:00 p.m., Monday through Friday, and 8:00 a.m. to 6:00 p.m., Saturdays and Sundays. This condition shall not apply to employees working overtime. (ONGOING: CODE ENF - Zoning) (Previous Condition Q.6 of Resolution R-2004-0157, Control No. 2003-036)

COMPLIANCE

1. In granting this approval, the Board of County Commissioners relied upon the oral and written representations of the petitioner both on the record and as part of the application process. Deviations from or violation of these representations shall cause the approval to be presented to the Board of County Commissioners for review under the compliance

condition of this approval. (ONGOING: MONITORING - Zoning)

2. Failure to comply with any of the conditions of approval for the subject property at any time may result in:

- a. The issuance of a stop work order; the issuance of a cease and desist order; the denial or revocation of a building permit; the denial or revocation of a Certificate of Occupancy; the denial of any other permit, license or approval to any developer, owner, lessee, or user of the subject property; the revocation of any other permit, license or approval from any developer, owner, lessee, or user of the subject property; revocation of any concurrency; and/or
- a. The revocation of the Official Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or any other zoning approval; and/or
- b. A requirement of the development to conform with the standards of the ULDC at the time of the finding of non-compliance, or the addition or modification of conditions reasonably related to the failure to comply with existing conditions; and/or
- c. Referral to code enforcement; and/or
- d. Imposition of entitlement density or intensity.

Staff may be directed by the Executive Director of PZ&B or a Code Enforcement Special Master to schedule a Status Report before the body which approved the Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment, and/or other zoning approval, in accordance with the provisions of Article 2.E of the ULDC, in response to any flagrant violation and/or continued violation of any condition of approval.

Departmental administrative actions made pursuant to this condition may be appealed as provided in the Unified Land Development Code (ULDC), as amended. Appeals of any revocation of an Official Zoning Map Amendment, Conditional Use, Requested Use, Development Order Amendment or other actions based on a Board of County Commission decision shall be by petition for writ of certiorari to the Circuit Court, Appellate Division, 15th Judicial Circuit of Florida. (ONGOING: MONITORING - Zoning)